

Ashley M. Gjovik, JD
In Propria Persona
2108 N St. Ste. 4553
Sacramento, CA, 95816
(408) 883-4428
legal@ashleygjovik.com

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ASHLEY M. GJOVIK,
an individual,

Plaintiff,

vs.

APPLE INC.,
a corporation,

Defendant.

Gjovik v. Apple Inc

Case No. 3:23-CV-04597-EMC

Judge: Edward M. Chen

PLAINTIFF'S
NOTICE OF PENDENCY
CIVIL L.R. 3-13

U.S. EPA CITIZEN SUIT
& PUBLIC NUISANCE

Gjovik v. Apple, Santa Clara, and
K. Jenab, et al.

Case No. 5:25-cv-07360-NC

Judge: Nathanael Cousins

Court: San José District Court,
Northern District of California

PLAINTIFF'S NOTICE OF PENDENCY

1
2
3 1. Plaintiff, Ashley Marie Gjovik, files this Notice of Pendency under Civil L.R. 3-13
4 regarding a potentially related case with similar, related, and/or overlapping facts as the original
5 claims in *Gjovik v. Apple Inc.*, 3:23-cv-04597-EMC. These potentially related claims include
6 dismissed tort and civil claims such as Private Nuisance, Ultrahazardous Activities, IIED (Fear of
7 Cancer), and the RICO Act. These dismissed claims requested personal damages as well as
8 injunctive and declaratory relief.

9 2. Plaintiff attempted to appeal the RICO and environmental tort dismissals to the
10 Ninth Circuit twice, but her request was denied both times as premature. Plaintiff also requested a
11 Rule 54 Certification, and was denied. (Dkt. 113-114, 184, 188, 196, 212). In the meantime,
12 Defendants (Apple, City of Santa Clara, and K. Jenab, et al.) continued operating the
13 semiconductor manufacturing facility in violation of federal and state environmental laws, and
14 causing irreparable harm to the surrounding community and environment.

15 3. On July 1 2025, Plaintiff filed a Notice of Pendency in this case, regarding service of
16 a statutorily required Sixty Day Notice for a pending Environmental Citizen Suit to Apple, City of
17 Santa Clara, and K. Jenab. (Dkt. 226).

18 4. On July 1 2025, Plaintiff noted "Citizen Suits are filed in the U.S. District Court
19 nearest to where the violations occurred, which here would be the U.S. District Court located in
20 San José, California. If this court in San Francisco wishes to consolidate that action with this
21 instant action, or otherwise provide oversight on the portfolio of cases, the Plaintiff does not
22 object." (Dkt. 226). This Court did not reply or comment.

23 5. On July 21 2025, Plaintiff disclosed the Citizen Suit as pending environmental
24 litigation and environmental matters in her Chapter 7 Bankruptcy petition. She also noted this
25 instant case had environmental claims against only Apple, but those claims were dismissed by this
26 Court with prejudice and are currently awaiting appeal. (25-11496, Dkt. 1 at 55-56).

27 6. On August 19 2025, Plaintiff disclosed the Citizen Suit again in her Bankruptcy
28 filings explaining some of the reasons she is certain a Citizen Suit could never be considered a
bankruptcy "asset," in addition to no personal damages or financial recovery, noting that the

1 “taking of citizen suit enforcement rights eliminates the congressional checks on agency inaction
 2 that these statutes were designed to provide.... and Congressional enforcement mechanisms face
 3 destruction if DOJ can assume and dismiss citizen suits they originally refused to bring if they delay
 4 long enough to bankrupt the same citizen activists. This requires independent protection of the
 5 statutory rights Congress designed to operate as checks on executive inaction and as such the
 6 Debtor does not plan on asking for DOJ’s permission and abandonment prior to filing on Sept. 1
 7 2025.” The bankruptcy court and the Trustee never commented or objected. (*In Re Ashley Gjovik*,
 8 25-11496, U.S. Bankruptcy Court, D. Mass., Dkt. 17).

9 7. On August 19 2025, Plaintiff mentioned the Citizen Suit again in her Bankruptcy
 10 filings (*In Re Ashley Gjovik*, 25-11496, U.S. Bankruptcy Court, D. Mass., Dkt. 18 at 10).
 11 “Environmental Claims against Apple, City of Santa Clara, and Kalil Jenab (to be filed on or around
 12 Sept. 1 2025). For clarity, this does not include a request for compensatory damages.... the Citizen
 13 Suit (no. 26 -2) would not provide direct financial benefit to the Debtor.” The Bankruptcy Court or
 14 the Trustee have never objected or disagreed.

15 8. On August 27 2025, Plaintiff mentioned the Citizen Suit in a filing to this court at
 16 Dkt. 250 mentioning:

17 “On June 30-July 1, 2025, Plaintiff provided complete sixty-day notice of intent to
 18 file an EPA Citizen Suit to U.S. EPA, U.S. DOJ, and defendants Apple, City of Santa
 19 Clara, and the property owner of 3250 Scott Blvd. (Dkt. 226). The sixty-day notice
 20 period required under 33 U.S.C. § 1365(b)(1)(A) is a mandatory statutory
 21 prerequisite and integral part of the citizen suit process. Once this notice period
 commenced, the citizen suit litigation was effectively "pending" prior to the
 bankruptcy filing. See *Hallstrom v. Tillamook County*, 493 U.S. 20, 31 (1989) (notice
 requirements are "mandatory conditions precedent to commencing suit").

22 The U.S. DOJ has not yet commenced any civil or criminal enforcement action
 23 despite receiving proper notice. Under 33 U.S.C. § 1365(b)(1)(B), citizen suits are
 24 barred only when "the Administrator or State has commenced and is diligently
 25 prosecuting" enforcement action—which has not occurred here. The Plaintiff has
 made it known she plans to sue on Sept. 2 2025 in the U.S. District Court in San
 Jose (nearest to the factory) if U.S. DOJ does not file their own lawsuit by then.

26 Environmental citizen suits are not property of the estate under 11 U.S.C. § 541
 27 because they are held in trust for the public, not for the debtor's economic benefit.
 28 Property "that the debtor holds in trust for another is not property of the estate." 11

U.S.C. § 541(d); *Nelson Mullins Bankruptcy Basics*. Environmental citizen suits "act as a potent lever to ensure that corporations, individuals, and agencies follow the law" and protect "public interests, not debtor's economic interests." The debtor seeks only injunctive relief and civil penalties paid to the U.S. Treasury — creating no economic benefit to the estate.

Apple has been served with this notice and knows this lawsuit is imminent, which is another reason it appears to have filed this meritless "Motion for a Stay," fishing for a court order prohibiting the Plaintiff from litigating in federal courts in hope it would prevent her from suing Apple under these federal environmental statutes over their illegal semiconductor fabrication plant that is actively poisoning a community. The pending EPA citizen suit should proceed as scheduled in federal court, as Congress intended when it created these essential environmental enforcement mechanisms. *Friends of the Earth, Inc. v. Laidlaw Environmental Services*, 528 U.S. 167 (2000)."

Dkt. 250.

9. On Sept. 2 2025 Apple filed a Reply (Dkt. 254) to Plaintiff's Opposition in this case (Dkt. 250) and Apple made no mention of, or objection to, Plaintiff's Citizen Suit, Plaintiff's Sixty Day Notice, or Plaintiff's intention to file the Citizen Suit on 9/2.

10. Plaintiff's and Apple's filings (Dkt. 250, 254) were also served to the Bankruptcy Trustee, who also never objected or disagreed with Plaintiff's comments about the Citizen Suit.

11. Plaintiff filed her Environmental Citizen Suit at the San Jose Division of the Northern District of California Courthouse on Sept. 2 2025. (*Gjovik v. Apple Inc, City of Santa Clara, and Khalil Jenab*, et al. 5:25-cv-07360-NC, District Court, N.D. California)

12. The Citizen Suit was filed using funds from a GoFundMe "trust" which was contained funding donated by the public specifically for the Citizen Suit. ¹

13. As a Pro Se Plaintiff, local rules require a physical paper complaint to be left with the Clerk in order to initiate the case. The Complaint was dropped off for Plaintiff by a concerned community member who is actively and directly impacted by the pollution at the 3250 Scott Blvd facility. (5:25-cv-07360, Dkt. 1).

14. The Citizen Suit digital case was not created in PACER until end of day on Sept. 4 2025. Plaintiff was not given PACER efilng access until Friday Sept. 5 2025.

¹ GoFundMe, *Litigation Fund: Citizen Suit re Apple's Skunkworks Fab*, <https://www.gofundme.com/f/litigation-fund-citizen-suit-re-apples-skunkworks-fab>

1 15. Plaintiff requested the Summons for the three Defendants from the court on Friday
2 Sept. 5 2025 and the Summons have not yet been provided. (5:25-cv-07360, Dkt. 6).

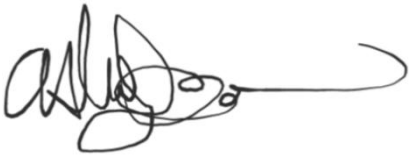
3 16. Plaintiff sent a digital copy of the Complaint (5:25-cv-07360, Dkt. 1) to the U.S. EPA
4 enforcement team on Friday Sept. 5 2025.

5 17. Plaintiff initiated statutorily required service of the Complaint to the U.S. the
6 Attorney General and U.S. EPA Administrator the morning of Monday Sept. 8 2025.

7 18. On the afternoon of Monday Sept. 8 2025 around 1PM EST, Plaintiff had her first
8 meeting with her Trustee and among other topics, they discussed the Citizen Suit. Out of an
9 abundance of caution, they discussed filing a stipulation to the Bankruptcy court agreeing that a
10 EPA Citizen Suit is not and could not be an estate asset, because, among other factors, it's a public
11 trust lawsuit, a federal enforcement action, and there's no financial recovery for creditors. Its
12 unclear if this stipulation would even be needed as things that are not estate property do not need
13 to be expressly disclaimed.

14 19. The Honorable Magistrate Judge Nathanael Cousins filed a notice of Judicial
15 Referral regarding this case to The Honorable Judge Edward M. Chen around 5:14 PM EST on
16 Monday Sept. 8 2025.

17 20. Plaintiff files this update for the court, renewing her lack of objections if this Court
18 would like to manage and/or relate these cases. Plaintiff does ask for consideration of keeping the
19 case in San Jose due to the proximity to the location for Jury visits and other onsite court activities
20 that are common in these types of cases.

21
22
23


24 /s/ Ashley M. Gjovik

25 *Pro Se Plaintiff*

26 Filed: Sept. 8 2025

27 Email: legal@ashleygjovik.com

28 Physical Address: Boston, Massachusetts

 Mailing Address: 2108 N St. Ste. 4553 Sacramento, CA, 95816

 Phone: (408) 883-4428